IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 295 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HARSUKHLAL MULJIBHAI

Versus

STATE OF GUJARAT

Appearance:

MS KRISHNA U MISHRA for Petitioner

MR SAMIR J DAVE for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/05/2001

ORAL JUDGEMENT

#. Rule. The counsel for the respondents waives service of rule on behalf of the respondents. The matter is taken up for hearing today as prayer is made by the petitioner-convict-prisoner for grant of parole leave.

#. Learned counsel for the petitioner contended that the application of the petitioner for parole leave has been rejected by the Additional District Magistrate, Junagadh

District only on the ground that against the conviction of the petitioner, appeal is pending in this Court. This, what the learned counsel for the petitioner contended, is not a correct ground as the appeal filed by the petitioner against the conviction has been dismissed by this Court on 22nd March, 2000.

#. Learned counsel for the respondents very fairly submitted that if factually some mistake is there in the order, it is always subject to correction on being pointed out by the petitioner or brought to the notice of authority which made that order.

#. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner.

#. From the order, I find that the application of the petitioner has been rejected on the ground that against the conviction, the petitioner's appeal is pending before this Court. It is a fact what the learned counsel for the petitioner stated to be incorrect. It is a matter where the respondent-Additional District Magistrate, Junagadh district has to ascertain the correctness of the statement made by the petitioner and if in case where appeal filed by him is dismissed by this Court as what it is stated, the matter may be considered afresh and order be passed in accordance with law within a period of seven days from the date of receipt of writ of ths order. Rule is made absolute accordingly with no order as to costs.

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